

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

HOANG TRUONG,

Plaintiff,

v.

E. BURNETT et al.,

Defendants.

)
)
)
)
)
)
)
)
)
)

Case No. CIV-14-1323-R

REPORT AND RECOMMENDATION

Plaintiff Hoang Truong, a state prisoner appearing pro se, has filed an application for leave to proceed *in forma pauperis* and supporting affidavit (Doc. No. 2). This matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b). Having reviewed said application, the undersigned finds that Plaintiff has a current balance of \$612.04 in his institutional account, which is sufficient to prepay the \$400.00 filing fee in this 42 U.S.C. § 1983 lawsuit.

Because Plaintiff has not demonstrated an inability to prepay the filing fee, the undersigned recommends that the District Judge:

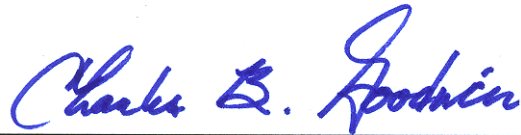
- (1) deny the application for leave to proceed *in forma pauperis*;
- (2) order Plaintiff to pay the full \$400.00 filing fee within 21 days of any order adopting this Report and Recommendation, *see* LCvR3.2, 3.3(e); and
- (3) dismiss the action without prejudice to refiling if Plaintiff fails to timely pay the filing fee to the Clerk of this Court, or to show good cause for the failure to do so, within 21 days of any order adopting this Report and Recommendation, *see* LCvR 3.3(e).

NOTICE OF RIGHT TO OBJECT

Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court by December 24, 2014, in accordance with 28 U.S.C. § 636 and Federal Rule of Civil Procedure 72. Plaintiff further is advised that failure to timely object to this Report and Recommendation would waive the right to appellate review of both factual and legal issues contained herein. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This report and recommendation disposes of all issues referred to the undersigned Magistrate Judge in the present case.

ENTERED this 3rd day of December, 2014.



CHARLES B. GOODWIN
UNITED STATES MAGISTRATE JUDGE